Statement of


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Before the


Subcommittee on Telecommunications, Trade & Consumer Protection
Committee on Commerce

House of Representatives


on


Reauthorization of the


National Telecommunications & Information Administration
U.S. Department of Commerce

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Washington, D.C.

<u>Summary of Statement of Kenneth Robinson</u> [1]

NTIA's spectrum management and Executive branch policymaking functions are important and should be reauthorized.  The case for reauthorizing the Public Telecommunications Facilities Program (PTFP) is not overwhelming.  But PTFP does meet the capital needs of public broadcasting, and may be justifiable given (a) the enormous public stake in public broadcasting generally and (b) the need to minimize any risk of audience coverage shrinkage.

Conceivably, NTIA's "Information Infrastructure Grants Program" might meet traditional grants criteria as well as public needs.  On the current record, however, the NTIA program would appear to replicate other Federal grant and support programs (based on information contained in the President's Budget submission).  The NTIA and other-agency spending programs may also replicate the new "wire-the-schools" effort which the Federal Communications Commission (FCC) is pursuing as it implements the 1996 Telecommunications Act.  Prior to reauthorizing this new NTIA grant program, therefore, the Office of Management and Budget and Commerce Department should be requested to provide the Committee with specific information that clearly supports this spending.

Specific responses to the Committee's questions regarding NTIA funding, staffing, compliance with the 1993 "Results Act," and privatization follow the text of this statement.

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[1]  Kenneth Robinson is a Washington communications lawyer who served as senior legal adviser to former FCC Chairman Alfred C. Sikes, and as senior policy adviser to four heads of NTIA from the Carter through the Bush Administrations.  Previously, he worked at NTIA's predecessor agency, the Office of Telecommunications Policy in the Executive Office of the President and at the Antitrust Division of the U.S. Department of Justice.   The statement required by Rule 4(b)(2) of the Committee's Rules as well as a full curriculum vitae appears on p. 18 of this statement.

Mr. Chairman and Members of the Committee:

The Commerce Department's National Telecommunications and Information Administration (NTIA) is one of the oldest Federal communications agencies.  NTIA can trace its origins back to the Coolidge Administration and the agency continues to have several important responsibilities.

## Federal Radio Spectrum Management

NTIA's central responsibility today is to manage the Government's own use of the radio frequency spectrum. Incidentally, this is the core function which is identified and stressed in virtually all the reports, recommendations, and analyses issued regarding Executive branch communications policymaking.[1]

The Government relies on radio communications for all the same reasons the private sector does.  The Government also relies on radio communications to fulfill important governmental functions including law enforcement and national security.  Under section 305 of the Communications Act, as amended, the Commerce Secretary and, by delegation, the head of NTIA, administers Executive branch use of spectrum resources.

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[1]  The best recent, comprehensive, and readable report on NTIA is Wiley & Misener, Whither Goest NTIA?  The Fate of a Federal Telecommunications Agency, 48 Fed. Commun. L.J. 219 (1996).

Associated with this important activity are NTIA's research operations, chiefly the Boulder, Colorado-based Institute for Telecommunications Sciences (ITS).  Another adjunct activity is NTIA's international spectrum management role.  Together with the Federal Communications Commission (FCC) and the State Department, NTIA for decades has been an effective and efficient advocate for U.S. interests in International Telecommunication Union (ITU) and related forums.

<u>Executive Branch Policymaking & Advocacy</u>

A second important NTIA role traditionally has been developing and effectively advocating communications and information policy on the part of the Executive branch.

Communications and information services obviously affect an array of Federal programs and responsibilities, not to mention U.S. industry and commerce and, most importantly, the American public.

Any economic regulatory agency, such as the FCC, is always vulnerable on two counts.  There's obviously some risk decisionmaking will be primarily supplier-driven -- for the simple reason that suppliers are who the FCC and its staff interact with most.  Second, as with most agencies, parochialism constitutes a constant challenge.  There is always the chance that staff -- as

well as those dealing with the FCC -- will succumb to the notion
the world revolves around Title 47 of the U.S. Code and the FCC's
abundant rules.  Having steeped in that lore myself since 1968, I
can certainly attest to that challenge.

At least in concept, an Executive branch agency such as NTIA
can bring a more comprehensive, holistic perspective to the
communications policymaking table.  NTIA can also bring together
Executive agency views to ensure consistent and coherent positions.
That's important because Federal communications and information
policies ought to be the most informed, the best reasonably
possible.  It's important as one obviously does not want regulatory
decisionmaking which inadvertently compromises national goals and
programs.  It's also important as one does not want an independent
regulatory agency arbitrating among and between Executive agencies,
which is the likely effect when each goes to the FCC on its own.

To the extent that NTIA effectively satisfies this second
responsibility  -- to serve as an effective Executive branch policy
advocate -- that will help the Government and country.

## Associated NTIA Initiatives and Programs

In addition to these twin core NTIA responsibilities --
spectrum management and Executive branch policymaking and advocacy

-- NTIA has several programs which, typically, entail partnering with the FCC and other Federal agencies.

For example, NTIA has various functions associated with the participation of the Communications Satellite Corporation (COMSAT) in the International Telecommunications Satellite Organization (INTELSAT) and the International Maritime Satellite Organization (INMARSAT). NTIA works with the Commerce Department's International Trade Administration (ITA) and the Office of the U.S. Trade Representative (USTR) on overseas communications market opening, liberalization, and trade facilitation efforts. NTIA also has played a role in the Clinton Administration's overall "National Information Infrastructure" (NII) program.

<u>Two Grant Programs</u>

There, then, are two grant programs administered by NTIA. The oldest is the Public Telecommunications Facilities Program (PTFP), which makes matching capital grants in aid of the deployment and maintenance of public radio and television service. PTFP was moved from the Department of Health, Education and Welfare to NTIA during the Carter Administration. This small program -- with new obligational authority of about $19 million in fiscal year 1997 -- is responsible for the construction of almost all the nonprofit broadcast plant in the country.

A newer program is the Information Infrastructure Grants program, also called the Telecommunications and Information Infrastructure Assistance Program. This program was developed by the Clinton Administration. As stated in the President's Budget for fiscal year 1998, the program's purpose is to --

> [F]acilitate the development of the national telecommunications and information infrastructure by promoting the widespread availability of advanced telecommunications technologies to enhance the delivery of social services, such as education and health care; and support the formation of a nationwide, multimedia, high-speed, interactive infrastructure of varied information technologies.

U.S. Budget Appendix (FY 1998) at p. 291.

## Assessing NTIA's Programs and Performance

NTIA's two core functions -- spectrum management and policymaking -- are both important and fundamentally sound. NTIA's spectrum managers especially have proven adroit and effective in contending with many different demands and pressures, while also administering a complicated, essential, licensing program. Even including associated research activities, however, NTIA's spectrum management functions represent only about one-third of the agency's planned fiscal year 1998 spending -- about $11 million out of $34 million.

The effectiveness of NTIA's policymaking role has varied over the years. It obviously is a function, often, of personnel, as well as the interest of the Administration in communications and information topics. This Administration commendably has brought high-level focus to these topics, and NTIA has participated in that process. NTIA's policymaking activities, however, also constitute a quite small portion of overall spending -- about $2 million for domestic and $5 million for international.

## Rationales for PTFP

What about the PTFP? PTFP has been on the books since 1961, and virtually every Administration since President Johnson has sought to terminate the program. The current Administration proposal appears to be the same as advanced in 1994: terminate PTFP as a separate program, and combine it with the Information Infrastructure Grants Program.

This consolidation proposal was decisively rejected by the House Appropriations Committee.[2] My expectation would be that the Administration's proposal will, again, be rejected.

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[2] See Report of the Committee on Appropriations on the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, Fiscal Year 1994 [H.R. 4603], H. Rep. 103-552 at pp. 69-70 (June 21, 1994).

But should the PTFP be terminated? The classical reasons advanced for Federal capital grant programs may well have been there to support this effort 30 years ago. Federal spending experts generally maintain such capital grants -- "infrastructure investment" -- are justified when:

      (a)  At issue is a "big ticket" project and;

      (b)  There is no single local jurisdiction or entity able to muster the requisite capital (and securing consensus is difficult).

This is the rationale traditionally advanced for urban mass transit, highway, or similar outlays.

Admittedly, these rationales it may not apply fully to broadcasting facilities, which tend to be capital "non-intensive." These rationales also may not be relevant to PTFP as it currently functions. Federal spending experts have always sought to differentiate between initial, "seed money" grants and long-term operating support commitments (as the current Congressional review of National Rail Passenger Corp. (AMTRAK) funding shows). In the case of the PTFP, a significant number of grants in recent years have gone toward meeting what are really operating costs. They

have also gone toward establishing duplicate -- potentially duplicate -- facilities in some locales.

By the same token, the Federal Government has invested heavily in public broadcast facilities over the years. Estimates are that the public investment tops $1 billion. There is little question, moreover, that there could be some diminution in the public broadcasting service available to the public if replacement of transmission plant were precipitously halted. That would be most likely to occur, if at all, furthermore, in less well-populated areas of the country where the choices otherwise available tend to be fewer.

Arguments for continuing PTFP are, admittedly, largely a product of the old and, to some extent, discredited "sunk costs" rationale for continuing virtually any Federal grant program. By the same token, there is at least <u>some</u> rationale. Not all may find it convincing and compelling. But a rationale for continuing PTFP in some form is nevertheless there.

### Rationales for Information Infrastructure Grants

It is more difficult, however, to ascertain a clear, much less compelling rationale for continuing the current NTIA "Information

Infrastructure Grant" program, at least based on the current record.

For instance, one cannot convincingly show today that there is a dearth of computers available to nonprofit and related entities, or that the capital cost of obtaining them is prohibitive. One also cannot convincingly maintain that <u>this</u> particular grant program is satisfying needs which otherwise would not be met.

Consider, for instance, the matter of providing computers and Internet access to public schools, certainly the topic which today attracts the most political coverage. What are the specific needs there which are not now being met?

I don't know. According to the latest <u>U.S. Statistical Abstract</u>, 97.5 percent of all U.S. public, parochial, and private schools had computers in 1994 (the most recent year for which the Commerce Department evidently has final data). In 1994, there was one computer for every 11 students; estimates are that, today, it is about one for every nine. Incidentally, the incidence of computers was highest in public and lowest in parochial schools.[3]

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[3]   1996 <u>U.S. Statistical Abstract</u> at Tables 261, 262 (1997).

Do America's schools lack Internet access -- assuming that it is critical to education today? According to statistics made available by the Associated Press in conjunction with last Saturday's "NetDay," about 47,000 -- out of 105,763 -- schools in the country already have Internet access. Based on these figures, it is not easy to demonstrate a compelling national need for yet another major grant program.

Nor is there much reason to assume computers today are priced beyond almost anyone's means. There is a large and growing market for computer equipment -- both new and used. Machines capable of performing nearly all functions are readily available for just a few hundred dollars. Many companies and Government agencies also routinely make available recent-vintage computers and associated equipment to schools and nonprofit organizations, virtually for free.

These machines may be less "feature-rich," perhaps less exciting than the latest, far more costly new equipment. But any individual or group interested in obtaining very powerful computers quite capable of accessing the Internet, however, should be able to obtain them readily in the secondary market virtually anywhere in the country. Thus, it is difficult to argue that capital costs are so large that special Federal assistance is urgently needed.

## Other Federal Grant Programs

A further challenge to the continuation of the NTIA computer grant program is that virtually all the NTIA grant recipients to-date would seem to qualify for some other Federal, state, local, or private sector grant or assistance. At least based on the Budget documents which the Clinton Administration has transmitted to Congress, therefore, there appears to be some considerable overlap of functions here.

Consider again the matter of securing computers and Internet access via general purpose or generic Federal grants and assistance. Writing checks and achieving transfer payments, as Dr. Alice Rivlin has commented, is one of the activities which the Federal Government performs best. There does not appear to be any generic Federal grant program which bars grant recipients from using part of the funds awarded for administrative purposes, which typically includes purchase or lease of computers. What this means is that many general Federal grant programs obviously exist which, in part, meet the stated objectives of the NTIA Information Infrastructure Grant Program. The same would be true, of course, of organizations with contracts with Federal agencies to deliver public services.

There, then is the matter of "targeted grant" overlap, which also appears to be significant. Even the most cursory of reviews of the President's Budget submission suggests that the NTIA program replicates -- or, competes with -- a number of other Federal grant and assistance efforts which focus on computers and computer services.

The U.S. Department of Education, for instance, has requested about $300 million for its Office of Educational Research & Improvement, and the Administration-proposed appropriations language explicitly calls for continued funding of the "Iowa Communications Network" as well as a $2 million disbursement to the "Southeastern Pennsylvania Consortium" (1998 U.S. Budget Appendix at p. 448). Indeed, in the introductory narrative preceding its appropriations request, the Education Department cites the fact that some $2 billion has been pledged over the next five years as part of the President's "Technology Literacy Challenge Fund," which is earmarked to purchase computers, communications connections, training, and computer software (id. at p. 415).

The U.S. Department of Agriculture (USDA) has requested $21 million as part of its "Distance Learning and Medical Link" grant program (id. at p. 192-93); USDA's budget submission calls for some $3 million in "Rural Cooperative Development Grants" which will

defray the cost of deploying "rural technology" (<u>id</u>. at pp. 220-21), as well as some $25 million in "rural economic development" loans which, presumably, encompass computer and communications assets (<u>id</u>. at pp. 226-27).

The U.S. Department of Justice's "Community-Oriented Policing Services" grant program, for which the Administration has requested some $1.6 billion for fiscal year 1998, evidently encompasses grants for computer and communications "equipment and technology" (<u>id</u>. at p. 694). Apparently it is possible for police departments to purchase laptop computers, for instance, and to count them toward the goal of "100,000 cops on the beat," by calculating assumed manpower efficiencies. Laptop outlays, in other words, evidently are routinely converted into policeman and police woman equivalents by Justice grant recipients.

The Department of Housing & Urban Development (HUD) has requested some $2.5 billion to fund technical assistance and job training functions (<u>id</u>. at p. 533), $7 million to support "development of integrated community development management information systems" -- both computer hardware and software (<u>id</u>. at pp. 540-41), and $823 million in "Homeless Assistance Grants" which evidently are available to defray computer system costs -- not to mention a "National Cities in Schools Community Development

Program" which evidently targets educational computer needs (id. at pp. 543-44).

The Department of Transportation (DOT) is seeking $19.7 billion in "Federal-Aid Highways" spending authority and explicitly states that funding will be disbursed in aid of "technology and intelligent transportation systems" (id. at pp. 788-89). DOT's proposed "Transit Planning and Research" program -- $92 million next year -- apparently envisions funding "advanced technology" including computer and communications-intensive systems (id. at p. 814).

The National Science Foundation is requesting authority to disburse some $2.4 billion in "Research and Related Activities" grants, which explicitly cover computer and information sciences (id. at p. 1086). The Corporation for National and Community Service (AmeriCorps) has requested $43 million for "school and community-based service-learning programs" which evidently will rely on computers and communications (id. at p. 1020).

Given the array of other apparently competing Federal grant programs, many far larger than NTIA's, it is difficult to conclude that, but for the NTIA grant program, critical needs would be

unmet. There may well be such critical needs, to be sure. But from the President's Budget submission, that is by no means clear.

## Recommended OMB and Commerce Certification

In the overall scheme of things, the $36 million in new obligational authority sought for the NTIA program for fiscal year 1998 is obviously not a "show-stopping" amount. As Senator Stevens has noted, however, the fact that the U.S. Government is now operating at a significant deficit -- although, commendably, lower than in previous years -- means that the real cost of Federal spending is not simply the appropriations request, but also the interest which will be paid to borrow the money to fund that request.

As a hard-line fiscal conservative, I believe that extraordinary caution and prudence should be shown by Congress prior to reauthorizing Federal spending, and particularly grant programs. On the record as it now stands, the NTIA "Information Infrastructure Grants Program" would appear -- at best -- to replicate a number of other agency spending efforts and -- at worst -- to be unneeded.

The Committee, therefore, should defer the reauthorization of this grant program pending receipt of additional information from

the Office of Management and Budget (OMB) and the Commerce
Department clearly showing and certifying that this effort is
essential.  Specifically, OMB and Commerce should be requested to
provide the Committee with information showing --

    ::    What other Federal grant programs exist which could
support the stated goals of the NTIA program, and

    ::    What evidence is there that those existing programs
either cannot or will not meet the desires and
interests of the NTIA grant recipients?

### Relevance of the FCC's Efforts

Additionally, the Committee should seek further clarification
regarding the scope of the FCC's planned indirect support of
computer and communications systems operated by public schools,
libraries, and nonprofit health care providers -- and, how this
relates to the NTIA effort.

As part of its implementation of the Snowe-Rockefeller
amendment to the 1996 Telecommunications Act, an FCC-state "joint
board" has proposed an ambitious off-budget spending effort, as you
know.  Evidently funding will be available as part of any
telecommunications industry "universal service" program to meet

some, if not all of the computer needs which NTIA -- and, other
Federal agencies -- have identified as warranting grants.  It has
also been proposed that these "FCC grants" be available to meet
both capital as well as operating requirements.


Computers, communications, and the Internet no doubt can (and
do) play an important role in meeting a diversity of national
policy goals.  Here as in most other authorization and spending
contexts, however, the question comes down to how much taxpayer
support is actually needed to meet what clearly defined goals --
and, what program represents the most cost-effective policy tool?


### Conclusion

In conclusion, NTIA's spectrum management, Executive branch
policymaking, and PTFP programs pass reauthorization muster.  The
first two are important efforts; the third is an initiative which
is justifiable, although perhaps not compellingly so.  The
"Information Infrastructure Grants Program," however, is more
problematical.  On its face, this program would not appear to
satisfy traditional standards governing Federal capital grants.  It
may also replicate other agency programs and, indeed, may be
rendered redundant by the "universal service" initiative now
underway at the FCC.

I trust that this is responsive to the Committee's request. I am also attaching to this statement brief comments on each of the specific points which were raised by the Committee in its letter inviting me to testify. I would be pleased to provide any additional information or assistance which might be needed.


Thank you.


## Comments on Specific Points


1. NTIA's Current Budget & Staffing. Myself, I would concentrate NTIA's budget and staffing resources on functions which are (a) important and (b) will not be undertaken otherwise by other Federal agencies. Consequently, I would emphasize spectrum management and Executive branch policy coordination, development, and advocacy. I do not know what the appropriate levels would be in these two regards. The request for 47 additional full-time equivalent employees contained in the President's Budget request does seem quite large, however, since it would evidently entail almost a 50 percent increase in one fiscal year. Obviously, it is hard for any agency, particularly a small agency such as NTIA, to absorb increases on that magnitude efficiently.

2. NTIA's Future Budget & Staffing. Demands on the radio frequency spectrum are obviously growing. In Government, personnel reductions coupled with expanding mission requirements are forcing agencies to rely more and more on "leverage technologies" such as radio communications. In national defense, virtually all new weapons systems are radio frequency use-intensive. I would expect, therefore, that demands will grow for NTIA to do a better job managing the Government's use of this resource. I do not have any specific recommendations in this respect, however.

3. GPRA. The 1993 "Results Act" should encourage NTIA (and other agencies) to concentrate on actual "deliverables." That legislation should also encourage NTIA (and other agencies) to seek to anticipate future requirements.

Myself, I am not convinced that policymakers at NTIA or any other agency regard the "Results Act" as anything more than yet another budget-related reporting obligation, to be handled by outside consultants (which are currently advertising their ability to meet the Act's requirements). That is too bad.

One step which Congress could take to encourage Federal agencies to take the "Results Act" seriously would be to encourage agencies to expand their consultation with "stakeholders," as the law requires. Under Assistant Secretary Irving, NTIA commendably has undertaken to hold meetings and the like outside Washington to determine what the public is interested in getting from Government, and what precisely are the national interests and needs. It seems to me that there needs to be much more of that, however.

Congressmen and Congresswomen deal with the public on an intensive basis. I expect that they would have difficultly understanding how insular and removed from general public pressures most Federal agencies actually are. One way of overcoming that insularity could be the consultation requirements in the 1993 Act.

4. <u>Privatization</u>. No doubt, there are functions at NTIA which might be privatized. Although departments and agencies might express security-related concerns, some of the functions undertaken today by the Interdepartment Radio Advisory Committee's Secretariat could well be privatized.

I think, however, that much more significant public policy gains could be achieved if privatization were effectively advanced in communications and information systems generally. If the Office of Management and Budget (OMB) were ever seriously to enforce its traditional Circular A-76 "make-vs.-buy" standards, for instance, I expect that Federal demand for radio spectrum management could be significantly reduced. The same is true in respect of computer and information services.

Several proposals have been advanced over the years. In 1995, for example, the Progress & Freedom Foundation proposed allowing Federal agencies to relinquish spectrum for auctioning and to credit their appropriations accounts accordingly. In the final analysis, however, any of these efforts depend heavily on the overall will of the President and his Administration. Privatization is a major topic abroad; but in the United States, it has not been a significant Federal issue for many years. It should be, but it hasn't.

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1.   Statement Pursuant to Rule 4(b)(2) of the Committee Rules.
This certifies I have not received a Federal grant or contract
during fiscal years 1994-1997, nor do I represent entities which
have done so.

2.   Curriculum Vitae.   Kenneth G. Robinson, Jr., b. 1945, San
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